

applied for and received a thirty-day administrative leave from April 27, 1972 until May 26, 1972 because of her health. On June 12, 1972, she was absent from work for three hours for a court appearance. The Respondent did not accept the explanations given by the Appellant for her April or June absences, except for the thirty-day leave; and, therefore, they appear on Appellant's attendance record as absences without leave.

On June 20, the Superintendent at Central Colony sent Appellant a letter of reprimand concerning her "unsatisfactory attendance." The letter stated that the next time Appellant was absent without leave, her employment would be terminated.

In August 1972, Appellant was hospitalized for four days and no action was taken, since she was granted a leave without pay because of her illness.

In September 1972, Appellant was granted a half-day's leave without pay for the purpose of attending a court proceeding in which she was involved.

On October 4, 1972, Appellant telephoned her supervisor before the commencement of her work shift to report that she was ill and planned to contact her physician. She reported later in the day that the physician had advised her that she had uremic poisoning, but that she planned to report for work the following day.

On October 9, 1972, Appellant was on a leave without pay because she was ill.

On October 10, 1972, the Appellant and a number of supervisors met at Appellant's request to discuss her work attendance and health. Ms. Phillips, the Appellant's supervisor, had previously telephoned the

physician and the Hospital and was advised that the Appellant had been neither seen by the former nor treated at the latter on October 4. Mr. Fancher, the personnel manager, called the physician on October 10, 1972 and received the same information regarding the physician not having seen the Appellant that day. During the meeting, the Appellant stated that on October 4 she had been seen by her physician and that she had gone to Madison General Hospital and had certain laboratory work done. She said that she had a statement from the Hospital to corroborate that she was there. Mr. Fancher requested that she submit the statement from the Hospital, but Appellant did not supply any such statement. Appellant was on leave without pay for health reasons from October 9 to October 15.

On October 18, the Superintendent wrote Appellant a letter advising her that her employment was terminated as of that date. The letter referred to Appellant's absences in excess of paid leave time, either sick leave or vacation, continually during the four years of her employment at the School. It made reference to the reprimand letter of June 20 and the absence without leave on October 4. In the latter regard, the letter stated in detail the facts relative to the statements made by Appellant on October 4 and 10 concerning seeing her physician and being at the Hospital, which were contrary to information obtained by telephone inquiries to the physician and Hospital. Reference is also made in the letter to the promised statement from the Hospital, which was not submitted by the Appellant. The Superintendent concluded, the letter stated, that the story concerning the October 4 absence was a complete fabrication and that, therefore, she was being considered absent without leave on that date. The letter further states that the action is taken for violation of the Department Work Rule 14. That rule prohibits "excessive absenteeism."

We find the foregoing facts to have occurred, together with the facts set forth hereafter.

The discharge letter of October 18, 1972 is legally sufficient. It alleges that the number of absences exceeded the allowed sick leave and vacation in each of the four years of Appellant's employment.^{1/} It refers to the June 20 reprimand letter relative to any future absences without leave. It states in detail Appellant's allegedly false statements to explain her October 4 absence and specifies the Work Rule the Appellant allegedly violated.

Appellant was excessively absent. In May, 1972, the School honored her request for a thirty-day administrative leave for medical reasons. In August, 1972, it authorized her absence for a four-day hospitalization only two months after an extended medical leave. In October, 1972, Appellant was again absent from work for a number of days for illness. In total, she was absent from work for 52 working days, or approximately two and one-half months in a nine-month period. This is comparable to the employe's absenteeism in Dunn v. Weaver, Case No. 539, February 2, 1973 where the Board upheld a discharge for excessive absenteeism. In addition, Appellant was employed by a State facility which does not have extra staff to replace absent employes in this kind of work and, therefore, her work had to be picked up as additional work by the other employes. This condition has a direct relationship to the number of absences which an employer might find permissible and the number which must be regarded as excessive. We find, in addition to the facts previously determined, that under these circumstances, Appellant's absenteeism was excessive.

^{1/} Karetski v. Hill, Case No. 10, Opinion II, October 18, 1973.

In the instant case, the School was reasonably tolerant of the Appellant's absences, but refused to accept her poor attendance when it determined that her absence may not be for valid medical reasons. This came about when it could not verify her statements concerning her October 4 claimed illness.

The Appellant did not go to Madison General Hospital on October 4 for laboratory work as she had explained to her supervisor. At the hearing, Appellant present as an exhibit a hospital outpatient statement dated October 4, 1972, which indicated that the patient was the Appellant and that the charges were \$20.00. It further indicated that the amount due had been owing for over ninety days. The Appellant did not testify that she went to the Hospital on October 4 to have laboratory work, nor did she testify that the statement was for services the Hospital rendered to her that day. She presented no other testimony or evidence pertaining to having been at the Hospital, nor did she deny the testimony of Respondent's witnesses that she had told her supervisor she had been to the Hospital October 4. On the other hand, the Respondent presented testimony and documentary evidence that the same \$20.00 charge had been owing since 1968. The Patients Accounts Manager testified that the Hospital had no record of the Appellant receiving laboratory tests at the Hospital on October 4. He testified further that the outpatient invoice card for the Appellant, a copy of which was introduced into evidence, showed that Appellant had been last charged \$20.00 for laboratory work in 1968 and that the balance was outstanding since then. He testified that the charges reflected in the October 4 statement were for work done in 1968. We find that Appellant did falsely state to her supervisor on October 4 and again on October 10 that she had had laboratory work performed on October 4 at the Hospital in connection with her claimed illness that date, when in fact she had not.

We find further that Appellant was absent from work without leave on October 4.

We conclude that the Appellant was discharged for just cause.

ORDER

IT IS ORDERED that the discharge is sustained.

Dated Feb. 2, 1974

STATE PERSONNEL BOARD

BY

William Ahrens
William Ahrens, Chairman